

0002 11/24/09

09 CV 9753

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
FREEPLAY MUSIC LLC,

Plaintiff,

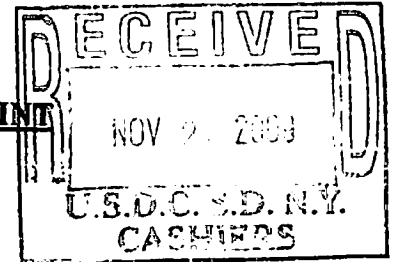
- against -

M-1 GLOBAL, M-1GLOBAL.COM, M-1 AMERICA,  
AFFLICTION ENTERTAINMENT GROUP, LLC, and  
AFFLICTION, INC.,

Defendants.  
-----X

Index No.

**COMPLAINT**



Plaintiff Freeplay Music LLC, by its attorney, Christopher Serbagi, Esq. for its Complaint against the above-named Defendants, alleges as follows:

**NATURE OF ACTION**

1. This is an action for federal copyright infringement arising from the Defendants' willful infringement of Plaintiff's copyrighted musical works.

**JURISDICTION AND VENUE**

2. This court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1332, and 1338.

3. This Court has personal jurisdiction over the Defendant pursuant to C.P.L.R. § 302.

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and 1391(c).

**THE PARTIES**

5. Plaintiff Freeplay Music L.L.C. ("Freeplay") is a New York corporation, whose principal place of business is 1650 Broadway, New York, New York 10019.

6. Upon information and belief, Defendant M-1 GLOBAL is a California entity, with its principal place of business at 8383 Wilshire Boulevard, Ste. 230, Beverly Hills, California, 90211.

7. Upon information and belief, Defendant M-1Global.com is a California entity, with its principal place of business at 8383 Wilshire Boulevard, Ste. 230, Beverly Hills, California, 90211.

8. Upon information and belief, M-1 America is a California entity, with its principal place of business at 8383 Wilshire Boulevard, Ste. 230, Beverly Hills, California, 90211.

9. Upon information and belief, Defendant Affliction Entertainment Group, LLC is a California Limited Liability Corporation with a principal place of business at 1799 Apollo Ct., Seal Beach, California 90740.

10. Upon information and belief, Defendant Affliction, Inc. is a California corporation with a principal place of business at 1799 Apollo Ct., Seal Beach, California 90740.

**ALLEGATIONS COMMON TO ALL COUNTS**

11. Among other things, Freeplay offers an on-line music library, which is a comprehensive collection of music spanning all the popular musical genres, available for preview, download and licensing.

12. Freeplay owns copyright registrations for approximately five thousand musical compositions and sound recordings (collectively, the “Sound Recordings”) and has approximately sixty-two million impressions to the freeplaymusic.com website.

13. On information and belief, Defendants M-1 Global, M-1Global.com and M-1 America (collectively M-1) organized and planned to hold a Mixed Martial Arts Event (“MMA”) between Fedor Emelianenko and Josh Barnett, scheduled for August 1, 2009 (the “MMA Event”), but was reportedly cancelled because Josh Barnett allegedly tested positive in the pre-screening drug test.

**The Infringing Commercial**

14. On information and belief, Defendants M-1 hired Affliction Entertainment Group, LLC and Affliction, Inc. (collectively “Affliction”) to produce a television commercial that would promote the MMA Event.

15. From at least July 20, 2009 to June 25, 2009, Defendants have caused to be broadcast, without proper authorization, Freeplay’s copyrighted song “Legion” on at least 412 different occasions in a commercial to promote the MMA Event (the “Infringing Commercial”). Freeplay’s song “Legion” is protected by copyright registration No. SR 374-845. A true and correct copy of this registration certificate is attached hereto at Exhibit A.

16. Defendants caused their Infringing Commercial to be shown on numerous national television stations, including the Discovery Channel, CNN, TNT, FOX, AMC, BRAVO, and others. Because the Defendants knew that those infringing productions would reach viewers in New York and that Freeplay would be damaged in New York as a result, all of the Defendants are subject to personal jurisdiction in this district.

17. On information and belief, Defendants have also likely caused to be broadcast Freeplay's copyrighted music on numerous additional infringing commercials on various local channels, which infringements Freeplay is currently investigating.

18. By letter dated September 11, 2009, Freeplay Music sent a cease and desist and demand letter to Defendant M-1, which letter generally identified the infringements set forth herein. The parties were not able to resolve the concerns that Freeplay identified in this letter.

19. On information and belief, the Defendants knew that they had no authorization to use Freeplay's copyright songs, but chose to do so anyway.

20. The extent of the Defendants' infringement of Freeplay's copyrighted music and the resulting damage to Freeplay caused by the Defendants' unlawful conduct is not yet known.

### **CAUSES OF ACTION AGAINST ALL DEFENDANTS**

#### **(FEDERAL COPYRIGHT INFRINGEMENT)**

21. Plaintiff repeats and re-alleges the allegations set forth in paragraphs 1 through 20, as if fully set forth herein.


22. As a result of the foregoing acts, Defendants have willfully and intentionally infringed Plaintiff's federal copyrights as set forth herein, all in violation of 17 U.S.C. § 501.

WHEREFORE, Plaintiff demands:

- (i) For statutory damages, lost profits, or any other damages provided by law.
- (ii) For increased damages due to willful infringement per infringed work as provided by law.
- (iii) For its reasonable attorney's fees and costs.
- (iv) For such other and further relief as the Court deems just and proper.

Dated: New York, New York  
November 23, 2009

LAW OFFICES OF CHRISTOPHER SERBAGI

By:   
Christopher Serbagi, Esq.  
488 Madison Avenue, Suite 1120  
New York, New York 10022  
Tele: (212) 593-2112  
Fax: (212) 308-8582

Attorney for the Plaintiff Freeplay Music L.L.C.

**Ex. A**



FORM 5010-101  
EXAMINED BY \_\_\_\_\_  
CHECKED BY \_\_\_\_\_  
CORRESPONDENCE \_\_\_\_\_  
D 769 \_\_\_\_\_  
FOR HIGH OFFICE USE ONLY



# CONTINUATION SHEET FOR APPLICATION FORMS

**Form SR-CON**  
UNITED STATES COPYRIGHT OFFICE

REGISTRATION NUMBER

SR 374-845



EFFECTIVE DATE OF REGISTRATION

1 23 06  
(Month) (Day) (Year)

CONTINUATION SHEET RECEIVED

JAN 23 2006

Page 3 of 4 pages

- This Continuation Sheet is used in conjunction with Forms CA, PA, SE, SR, TX, and VA, only. Indicate which basic form you are continuing in the space in the upper right-hand corner.
- If at all possible, try to fit the information called for into the spaces provided on the basic form.
- If you do not have enough space for all the information you need to give on the basic form, use this Continuation Sheet and submit it with the basic form.
- If you submit this Continuation Sheet, clip (do not tape or staple) it to the basic form and fold the two together before submitting them.
- Space A of this sheet is intended to identify the basic application.
- Space B is a continuation of Space 2 on the basic application.
- Space C is not applicable to Short Forms.
- Space D (on the reverse side of this sheet) is for the continuation of Spaces 1, 4, or 6 on the basic application or for the continuation of Space 1 on any of the three Short Forms PA, TX, or VA.

DO NOT WRITE ABOVE THIS LINE. FOR COPYRIGHT OFFICE USE ONLY

IDENTIFICATION OF CONTINUATION SHEET: This sheet is a continuation of the application for copyright registration on the basic form submitted for the following work:

- TITLE: (Give the title as given under the heading "Title of this Work" in Space 1 of the basic form.)

"FREEPLAY MUSIC CORP. / DVD # 2"

- NAME(S) AND ADDRESS(ES) OF COPYRIGHT CLAIMANT(S): (Give the name and address of at least one copyright claimant as given in Space 4 of the basic form or Space 2 of any of the Short Forms PA, TX, or VA.)

FREEPLAY MUSIC CORP.

**A**  
Identification  
of  
Application

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH  
Year Born ▼ Year Died ▼

**B**

Continuation  
of Space 2

Was this contribution to the work a "work made for hire"? ☐ Yes ☐ No

AUTHOR'S NATIONALITY OR DOMICILE  
Name of Country  
OR { Citizen of ► ☐ Domiciled in ► ☐

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☐ No Pseudonymous? ☐ Yes ☐ No If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of the material created by the author in which copyright is claimed. ▼

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH  
Year Born ▼ Year Died ▼

**e**

Was this contribution to the work a "work made for hire"? ☐ Yes ☐ No

AUTHOR'S NATIONALITY OR DOMICILE  
Name of Country  
OR { Citizen of ► ☐ Domiciled in ► ☐

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☐ No Pseudonymous? ☐ Yes ☐ No If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of the material created by the author in which copyright is claimed. ▼

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH  
Year Born ▼ Year Died ▼

**f**

Was this contribution to the work a "work made for hire"? ☐ Yes ☐ No

AUTHOR'S NATIONALITY OR DOMICILE  
Name of Country  
OR { Citizen of ► ☐ Domiciled in ► ☐

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☐ No Pseudonymous? ☐ Yes ☐ No If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of the material created by the author in which copyright is claimed. ▼

Use the reverse side of this sheet if you need more space for continuation of Spaces 1, 4, or 6 of the basic form or for the continuation of Space 1 on any of the Short Forms PA, TX, or VA.

CONTINUATION OF (Check which): ☒ Space 1 ☐ Space 4 ☐ Space 6**C**Continuation  
of other  
Spaces

CONTENT TITLES FOR:

"FREEPLAY MUSIC CORP/DVD #2"

1. DANCE & Pop VOL 2
2. DANCE & Pop VOL 3
3. DANCE & Pop VOL 4
4. DANCE & Pop VOL 5
5. DANCE & Pop VOL 6
6. DANCE & Pop VOL 7
7. DARK DIMENSIONS VOL 1
8. DARK DIMENSIONS VOL 2

Certificate  
will be  
mailed in  
window  
envelope  
to this  
address:

Name **Freeplay Music Corp.**  
 Number/Street/Apt **1650 Broadway, 1108**  
 City/State/ZIP **N.Y., NY 10019**

**YOU MUST:**

- Complete all necessary spaces
- Sign your application

**SEND ALL DOCUMENTS  
IN THE SAME PACKAGE:**

1. Application form
2. Non-refundable fee in check or money order payable to Registrar of Copyrights
3. Deposit material

**MAIL TO:**

Library of Congress, Copyright Office  
 101 Independence Avenue, S.E.  
 Washington, D.C. 20540-0009

**D**

Form are subject  
to change  
without notice.  
Check the Copyright  
Office website at  
www.copyright.gov  
for the Copyright  
Office or call  
202-707-6000

**Freeplay Music Corp / DVD #2**

**Dance & Pop Vol 2**

**Dance & Pop Vol 3**

**Dance & Pop Vol 4**

**Dance & Pop Vol 5**

**Dance & Pop Vol 6**

**Dance & Pop Vol 7**

**Dark Dimensions Vol 1**

**Dark Dimensions Vol 2**

Dance & Pop Vol. 2 w/ Funk Ease	1:01	4:38
Dance & Pop Vol. 2 w/ Funk Ease	2:01 :30	
Dance & Pop Vol. 2 w/ Funk Ease	3:01 :60	
Dance & Pop Vol. 2 w/ Funked	4:01	3:57
Dance & Pop Vol. 2 w/ Funked	5:01 :30	
Dance & Pop Vol. 2 w/ Funked	6:01 :60	
Dance & Pop Vol. 2 w/ Give me 1 Night	7:01	3:59
Dance & Pop Vol. 2 w/ Give me 1 Night	8:01 :30	
Dance & Pop Vol. 2 w/ Give me 1 Night	9:01 :60	
Dance & Pop Vol. 2 w/ I Feel	10:01	3:14
Dance & Pop Vol. 2 w/ I Feel	11:01 :30	
Dance & Pop Vol. 2 w/ I Feel	12:01 :60	
Dance & Pop Vol. 2 w/ Sweetbeat	13:01	4:23
Dance & Pop Vol. 2 w/ Sweetbeat	14:01 :30	
Dance & Pop Vol. 2 w/ Sweetbeat	15:01 :60	
Dance & Pop Vol. 2 w/ Come on	16:01	4:22
Dance & Pop Vol. 2 w/ Come on	17:01 :30	
Dance & Pop Vol. 2 w/ Come on	18:01 :60	
Dance & Pop Vol. 2 w/ Passion Within	19:01	3:38
Dance & Pop Vol. 2 w/ Passion Within	20:01 :30	
Dance & Pop Vol. 2 w/ Passion Within	21:01 :60	

Dance & Pop Vol. 3 wTonite	1:01	3:59
Dance & Pop Vol. 3 wTonite	2:01 :30	
Dance & Pop Vol. 3 wTonite	3:01 :60	
Dance & Pop Vol. 3 wAgain	4:01	2:35
Dance & Pop Vol. 3 wAgain	5:01 :30	
Dance & Pop Vol. 3 wAgain	6:01 :60	
Dance & Pop Vol. 3 wGet Up	7:01	3:25
Dance & Pop Vol. 3 wGet Up	8:01 :30	
Dance & Pop Vol. 3 wGet Up	9:01 :60	
Dance & Pop Vol. 3 wOne More Time	10:01	2:00
Dance & Pop Vol. 3 wOne More Time	11:01 :60	
Dance & Pop Vol. 3 wFeels Like Spring	12:01	3:05
Dance & Pop Vol. 3 wFeels Like Spring	13:01 :30	
Dance & Pop Vol. 3 wFeels Like Spring	14:01 :60	
Dance & Pop Vol. 3 wTake Me Higher	15:01	3:17
Dance & Pop Vol. 3 wTake Me Higher	16:01 :30	
Dance & Pop Vol. 3 wTake Me Higher	17:01 :60	
Dance & Pop Vol. 3 wAlright	18:01	2:39
Dance & Pop Vol. 3 wAlright	19:01 :30	
Dance & Pop Vol. 3 wAlright	20:01 :60	

Dance & Pop Vol 4	Digital Dusting	trk 1	:60
Dance & Pop Vol 4	FaÇout	trk 2	:50
Dance & Pop Vol 4	Fine Sine	trk 3	:60
Dance & Pop Vol 4	From The Hip	trk 4	:60
Dance & Pop Vol 4	Within The Wind	trk 5	:60
Dance & Pop Vol 4	Play(er)	trk 6	:60
Dance & Pop Vol 4	Retro Petro	trk 7	:60
Dance & Pop Vol 4	Stereo Kicks	trk 8	:60
Dance & Pop Vol 4	Sugar Stop	trk 9	:60
Dance & Pop Vol 4	Swing(er)	trk 10	:60
Dance & Pop Vol 4	Thunk Tank	trk 11	:60
Dance & Pop Vol 4	West Sides	trk 12	:60
Dance & Pop Vol 4	Digital Dusting	trk 13	:30
Dance & Pop Vol 4	FaÇout	trk 14	:30
Dance & Pop Vol 4	Fine Sine	trk 15	:30
Dance & Pop Vol 4	From The Hip	trk 16	:30
Dance & Pop Vol 4	Within The Wind	trk 17	:30
Dance & Pop Vol 4	Play(er)	trk 18	:30
Dance & Pop Vol 4	Retro Petro	trk 19	:30
Dance & Pop Vol 4	Stereo Kicks	trk 20	:30
Dance & Pop Vol 4	Sugar Stop	trk 21	:30
Dance & Pop Vol 4	Swing(er)	trk 22	:30
Dance & Pop Vol 4	Thunk Tank	trk 23	:30
Dance & Pop Vol 4	West Sides	trk 24	:30

Dance & Pop Vol 5	Across The Beat	Trk 1	2:10
Dance & Pop Vol 5	Come Up	Trk 2	:56
Dance & Pop Vol 5	Cool Jungle	Trk 3	1:04
Dance & Pop Vol 5	Left Handed	Trk 4	1:01
Dance & Pop Vol 5	Slow Dancer	Trk 5	1:06
Dance & Pop Vol 5	Time Pulse	Trk 6	1:03
Dance & Pop Vol 5	Across The Beat	Trk 7	:30
Dance & Pop Vol 5	Come Up	Trk 8	:30
Dance & Pop Vol 5	Cool Jungle	Trk 9	:30
Dance & Pop Vol 5	Left Handed	Trk 10	:30
Dance & Pop Vol 5	Slow Dancer	Trk 11	:30
Dance & Pop Vol 5	Time Pulse	Trk 12	:30

Dance & Pop Vol 6	Swing	Trk 1	:60
Dance & Pop Vol 6	Sumbia	Trk 2	:60
Dance & Pop Vol 6	So What	Trk 3	:60
Dance & Pop Vol 6	Ibiza Sky	Trk 4	:60
Dance & Pop Vol 6	Good Time	Trk 5	:60
Dance & Pop Vol 6	912 Players	Trk 6	:60
Dance & Pop Vol 6	2 Groove	Trk 7	:60
Dance & Pop Vol 6	Play	Trk 8	:60
Dance & Pop Vol 6	Swing	Trk 9	:30
Dance & Pop Vol 6	Sumbia	Trk 10	:30
Dance & Pop Vol 6	So What	Trk 11	:30
Dance & Pop Vol 6	Ibiza Sky	Trk 12	:30
Dance & Pop Vol 6	Good Time	Trk 13	:30
Dance & Pop Vol 6	912 Players	Trk 14	:30
Dance & Pop Vol 6	2 Groove	Trk 15	:30
Dance & Pop Vol 6	Play	Trk 16	:30



1113 Dance & Pop Vol 7	Bouncy Vibes	trk 3	1:00
1114 Dance & Pop Vol 7	Chinese Rude	trk 3	1:00
1115 Dance & Pop Vol 7	Dancehall Guitar	trk 3	1:00
1116 Dance & Pop Vol 7	Flute Banger	trk 4	1:00
1117 Dance & Pop Vol 7	Jazzed Out	trk 5	1:00
1118 Dance & Pop Vol 7	Kissed Out	trk 6	1:00
1119 Dance & Pop Vol 7	More Control	trk 7	1:00
1120 Dance & Pop Vol 7	So Cold	trk 8	1:00
1121 Dance & Pop Vol 7	Bouncy Vibes	trk 9	1:00
1122 Dance & Pop Vol 7	Chinese Rude	trk 10	1:00
1123 Dance & Pop Vol 7	Dancehall Guitar	trk 11	1:00
1124 Dance & Pop Vol 7	Flute Banger	trk 12	1:00
1125 Dance & Pop Vol 7	Jazzed Out	trk 13	1:00
1126 Dance & Pop Vol 7	Kissed Out	trk 14	1:00
1127 Dance & Pop Vol 7	More Control	trk 15	1:00
1128 Dance & Pop Vol 7	So Cold	trk 16	1:00

Dark Dimensions Vol 1	Behind The Looking Glass	trk 1	1:11
Dark Dimensions Vol 1	Dark Nightmare	trk 2	1:21
Dark Dimensions Vol 1	Demented Dreams	trk 3	1:20
Dark Dimensions Vol 1	Dreamscape	trk 4	1:20
Dark Dimensions Vol 1	Eerie Angel	trk 5	2:13
Dark Dimensions Vol 1	Final Sacrifice	trk 6	2:52
Dark Dimensions Vol 1	Haunted By Voices	trk 7	1:39
Dark Dimensions Vol 1	In Remembrance	trk 8	4:31
Dark Dimensions Vol 1	Morbid Fantasy	trk 9	1:27
Dark Dimensions Vol 1	Resonant Evil	trk 10	3:19
Dark Dimensions Vol 1	Midnight March	trk 11	:60
Dark Dimensions Vol 1	Behind The Looking Glass	trk 12	:60
Dark Dimensions Vol 1	Dark Nightmare	trk 13	:60
Dark Dimensions Vol 1	Demented Dreams	trk 14	:60
Dark Dimensions Vol 1	Dreamscape	trk 15	:60
Dark Dimensions Vol 1	Eerie Angel	trk 16	:60
Dark Dimensions Vol 1	Final Sacrifice	trk 17	:60
Dark Dimensions Vol 1	Haunted By Voices	trk 18	:60
Dark Dimensions Vol 1	In Remembrance	trk 19	:60
Dark Dimensions Vol 1	Morbid Fantasy	trk 20	:60
Dark Dimensions Vol 1	Resonant Evil	trk 21	:60
Dark Dimensions Vol 1	Behind The Looking Glass	trk 22	:30
Dark Dimensions Vol 1	Dark Nightmare	trk 23	:30
Dark Dimensions Vol 1	Demented Dreams	trk 24	:30
Dark Dimensions Vol 1	Dreamscape	trk 25	:30
Dark Dimensions Vol 1	Eerie Angel	trk 26	:30
Dark Dimensions Vol 1	Final Sacrifice	trk 27	:30
Dark Dimensions Vol 1	Haunted By Voices	trk 28	:30
Dark Dimensions Vol 1	In Remembrance	trk 29	:30
Dark Dimensions Vol 1	Morbid Fantasy	trk 30	:30
Dark Dimensions Vol 1	Resonant Evil	trk 31	:30
Dark Dimensions Vol 1	Midnight March	trk 32	:30

Dark Dimensions Vol 2	All In All	Trk 1	2:20
Dark Dimensions Vol 2	Conspiracy	Trk 2	2:40
Dark Dimensions Vol 2	Deserted	Trk 3	2:48
Dark Dimensions Vol 2	Liar	Trk 4	2:15
Dark Dimensions Vol 2	Legion	Trk 5	2:43
Dark Dimensions Vol 2	Spirit	Trk 6	2:12
Dark Dimensions Vol 2	The Rising	Trk 7	2:20
Dark Dimensions Vol 2	Universe	Trk 8	2:06
Dark Dimensions Vol 2	All In All	Trk 9	:60
Dark Dimensions Vol 2	Conspiracy	Trk 10	:60
Dark Dimensions Vol 2	Deserted	Trk 11	:60
Dark Dimensions Vol 2	Liar	Trk 12	:60
Dark Dimensions Vol 2	Legion	Trk 13	:60
Dark Dimensions Vol 2	Spirit	Trk 14	:60
Dark Dimensions Vol 2	The Rising	Trk 15	:60
Dark Dimensions Vol 2	Universe	Trk 16	:60
Dark Dimensions Vol 2	All In All	Trk 17	:30
Dark Dimensions Vol 2	Conspiracy	Trk 18	:30
Dark Dimensions Vol 2	Deserted	Trk 19	:30
Dark Dimensions Vol 2	Liar	Trk 20	:30
Dark Dimensions Vol 2	Legion	Trk 21	:30
Dark Dimensions Vol 2	Spirit	Trk 22	:30
Dark Dimensions Vol 2	The Rising	Trk 23	:30
Dark Dimensions Vol 2	Unlverse	Trk 24	:30